HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 993 (M/S) OF 2006

Km. Isha Bhutani, (Minor) D/o Sri Victor Bhutani
Through her natural guardian father
R/o 109, Basant Gali Kharkari Tehsil
And District Dehradun .....Petitioner

Versus

State of Uttaranchal, Shiksha Evam Pariksha Parishad,
Ramnagar, through its Secretary .....Respondent

Sri Mahaveer Singh Tyagi, Advocate, counsel for the petitioner
Sri V.K. Bisht, Sr. Advocate, assisted by Sri Shushil Vashistha counsel for the respondent.

Dated 2.8.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Mahaveer Singh Tyagi, Advocate for the petitioner and Sri V.K. Bisht, Sr. Advocate, assisted by Sri Shushil Vasistha Counsel for the respondent.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondent to re-evaluate the answer-sheet of the petitioner Science I & II papers.

Briefly stated, the petitioner appeared in the High School Examination, 2006 as a regular candidate with subject of Hindi, English, mathematics, science, social

science and drawing from Rishi Inter College, Kharkari with Roll No. 0003349.

According to the case of the petitioner, she appeared in all the papers of the subject of Hindi, English, mathematics, science, social science and drawing and she answered all the papers with her full satisfaction.

However, the result was declared in June, 2006 and the petitioner could not succeed in the said examination and on giving the mark-sheet, in science subject, she has not succeeded. So far as the evaluation is concerned, there is no provision for evaluation for the marks and as such no relief can be granted to the petitioner.

So far as the scrutiny is concerned, the petitioner has submitted that let the scrutiny be made of the answer book of science first & second papers.

Sri V.K. Bisht, Sr. Advocate, has submitted that let the petitioner apply for scrutiny and the same shall be done by the Secretary Uttaranchal Shiksha Evam Pariksha/respondent.

In **Vaibhav Pandey Vs. Board of High School and Intermediate Education (1998) 2 U.P.L.B.E.C. 1501,** it has been held as under:-

"2. The past record of the petitioner indicates that he is on exceptionally brilliant student. In High School

examination, the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner has been awarded 19 marks out of 32 in Hindi 3rd Papers. The petitioner has been awarded much higher marks in other subjects. The apprehension of the petitioner is that his answer book of Hindia IIIrd paper has not been correctly examined.

3. this writ petition is finally disposed of with the direction that respondent no.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petition in Hindi IIIrd paper of High School examination, 1998 within a period of one month from the date of certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent no.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476.

The aforesaid judgment has also been followed in Trishma Singh Vs. U.P. Intermediate Education Board Allahabad, 2001 U.P. Local Bodies Cases 2071. Paragraph-7 of the judgment is important which is quoted below:

"Learned counsel, for the petitioner has placed reliance on the case of Vaibhav Pandey Vs. Board of High School & Intermediate Education (1988) 2 UPLBEC, 1501, in which this Court held as under :-

This writ petition is finally disposed of with the direction that respondent no.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent nO.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1066476."

It has further been held by the Allahabad High Court in the case Mobeen Ahmad Ansri Vs. State of U.P. and others (1999) 1 UPLBEC 603 as under :-

"It is a matter of great concern that in the recent years there is consideration influx of such writ petitions in this Court has increased. Earlier the board of High School and Intermediate Education had inspired so much confidence that seldom writ-petition were filed. Filing of writ petition on

such a large scale before this Court indicate that there is considerable dissatisfaction among the students and their parent which requires introspection by the Board authorities as well. Although this Court seldom interfere in the revaluation of the marks, but with a view to have greater accountability and transparency there is a need for framing some certain rules to rectify the error, mistake or defection calculation of the marks."

Thus, the respondent is directed to get the scrutiny of the answer books in accordance with the aforesaid judgments of the Allahabad High Court, where it has been held that there should be transparency of the marks and the petitioner may not be deprived from his legitimate claim.

Respondent is directed to complete the scrutiny of the answer books within a period of six weeks provided the petitioner applies for the same

Writ petition is disposed of. No order as to costs.

2.8.2006 (Rajesh Tandon, J.)